HIGH COURT OF CHHATTISGARH AT BILASPUR
Writ Petition (c) No. 1666 of 2007

Petitioner	:	Hem Lal, son of Jhuru Sahu, aged about 40 years, resident of Panhda, P.O. Borsi, Tehsil-Kurud, District-Dhamtari (C.G.)
	Versus	
Respondents	:1.	State of Chhattisgarh, through Collector, Dhamtari, District Dhamtari (C.G.)
	2.	Om Lal, son of Bisahu Sahu, resident of Village-Panhda, P.O. Borsi, Tahsil-Kurud District-Dhamtari (C.G.)
	3.	Govind Sahu, aged about 28 years son of Phaguwa Sahu, "Secretary" Gram Panchayat Panhda, resident of Panhda, Tehsil-Kurud, District-Dhamtari (C.G.)
	4.	Phaguram Sinha, aged about 34 years, son of Bh-aiya Ram Sinha
	5.	Dhananjai Kumar Diwan, aged about 25 years, son of Sukalu Kanwar.
	6.	Geeta Bai aged about 34 years wife of Om Lal Caste Sahu, Panch Gram Panch-ayat Panhda
	7.	Vimla Bai Dhruv aged about 35 years wife of Baldu Ram Dhruv Panch Gram Panchayat Panhda.
	8.	Shyam Bai aged about 28 years, wife of Suresh Dewan-gan, Panch Gram Panchayat Panhda.
		Residents of Respondent No. 4 to 8 Village-Panhda, P.O. Borsi, Tehsil-Kurud, District-Dhamtari (C.G.)

SB : Hon'ble Shri Satish K. Agnihotri, J.

Present: Mr. Awadh Tripathi, Advocate for the petitioner.
Mr. Utkarsh Verma, Dy. Govt. Advocate for the respondent No. 1/State

---

ORDER

(Passed on this 21st day of March, 2007)

1. By this petition, filed under Article 227 of the Constitution of India, the petitioner challenges the legality and validity of the order dated 11.01.2007 (P/10), passed by the Additional District Judge, Dhamtari, whereunder the Additional District Judge has rejected the Miscellaneous Civil Appeal No. 18/06 upholding the order dated 28.8.2006 (P/9), passed by the Civil Judge, Class-II, Kurud, District Dhamtari in Civil Suit No. 188 A/05.

2. The indisputable facts, in nutshell, are that the petitioner filed a Civil Suit for permanent injunction. In the pending civil suit, the petitioner filed an application under Order 39, Rule 1 and 2 of the Code of Civil Procedure, 1908 for temporary injunction against the respondents, restraining them to interfere with the possession of the petitioner over the suit property. The Civil Judge, Class-II, Kurud, after hearing the parties at length, held that it is not clear asto whether the disputed premises is erected on the suit land and whether the petitioner is in possession of the suit land.

3. The petitioner has not produced any document indicating the fact that the petitioner was in possession of a particular portion of the land, bearing Khasra No. 499/59, area 2.17.

4. Admittedly, the suit land was a government land. For grant of interim relief for temporary injunction, in respect of a particular portion, it was necessary to file a demarcation certificate. Prima-facie, the Civil Judge did not found balance of convenience in favour of the petitioner. Thus, the Civil Judge, vide order dated 28.8.2006 (P/9), dismissed the said application.

5. Against the order dated 28.8.2006, passed by the Civil Judge, Class-II, Kurud, the petitioner preferred an appeal, being Miscellaneous Civil Appeal No. 18/06, before the Additional District Judge, Dhamtari, which was also dismissed vide order dated 11.1.2007 (P/10), holding as under:-

> "विचारण न्यायालय के समक्ष अपीलार्थी का वाद ग्राम पाहंदा स्थित भूमि खसरा नंबर 499 रकबा 2.17 एकड़ के दो हजार वर्ग फीट भाग का है। विवादित भूमि/भूमि का एक हिस्सा है, जिसका क्षेत्रफल 2000 वर्ग फीट है। इस न्यायालय के मतानुसार जहां विवादित/ किसी भूमि के हिस्से का होता है वहां भूमि का नक्शा प्रस्तुत किया जाना चाहिये था इसका सीमांकन भी कराया जाना चाहिये। इसका कारण यह है कि इस मामले में उभयपक्ष द्वारा प्रस्तुत शपथ पत्र के अनुसार अपीलार्थी जिस भूमि पर कब्जा करना चाहता है, वह भूमि

(93)

उसे पटटे पर प्राप्त भूमि का हिस्सा नहीं है। विचारण न्यायालय के समक्ष प्रस्तुत खसरा पत्र के अनुसार खसरा नंबर 499 रकबा 2.17 एकड़ आबादी भूमि है तथा यह भूमि शासन की है। अतः इस भूमि पर प्रथम दृष्ट या में अपीलार्थी का स्वामित्व नहीं होता है। इसलिए यदि अपीलार्थी के कथन के अनुसार उसे उक्त भूमि के दो हजार वर्ग फीट भाग का पटटा प्राप्त हुआ है तो सर्वप्रथम उसे सीमांकन द्वारा यह निर्धारित कराना चाहिये कि उसकी भूमि की सीमा कहां से प्रारंभ होती है एवं कहां समाप्त होती है".

6. I have heard learned counsel appearing for the parties and perused the records and documents appended thereto, no infirmity, illegality or irregularity has been noticed in the impugned order. Thus, the impugned order is just and proper and needs no interference. There is no jurisdictional error also in appreciation of the facts in passing the impugned order. Thus, this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India is not inclined to interfere with the order.

7. As a result and for the reasons stated hereinabove, this petition is dismissed.

Sd/-
Satish K.Agnihotri
Judge

B/-